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**ADMITTED ONLY IN TEXAS; SUPERVISION BY
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September 5, 2012

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Amendment to Petition of NTUA Wireless, LLC for Designation as an
Eligible Telecommunications Carrier for Lifeline Service and to Qualify for
the Mobility Fund Phase I (Auction 901) on the Navajo Nation

Dear Ms. Dortch:

On behalf of NTUA Wireless, LLC, please find attached the Amendment to
Petition of NTUA Wireless, LLC for Designation as an Eligible Telecommunications
Carrier for Lifeline Service and to Qualify for the Mobility Fund Phase I (Auction 901)
on the Navajo Nation, filed in WC Docket No. 09-197, WT Docket No. 10-208, and AU
Docket No. 12-25.

Please note that I submitted the same filing via ECFS in the above-mentioned
dockets on September 4, 2012 and inadvertently entered the name of the filing entity as
my personal name, rather than NTUA Wireless, LLC. To ensure that ECFS reflects the
proper name of NTUA Wireless, LLC as the filing entity, I am re-submitting the same
filing that was made on September 4, 2012.

If you have any questions regarding this filing, please contact me.

Respectfully submitted,

/s/ Seth Lucia

Seth Lucia

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Attorney for NTUA Wireless, LLC

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

In the Matter of		
Petition of NTUA WIRELESS, LLC for Designation as an Eligible Telecommunications Carrier pursuant to Section 214(e)(6) of the Communications Act of 1934, as Amended		WC Docket No. 09-197
Universal Service Reform - Mobility Fund		WT Docket No. 10-208
Mobility Fund Phase I Auction		AU Docket No. 12-25

**AMENDMENT TO PETITION OF NTUA WIRELESS, LLC
FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER FOR
LIFELINE SERVICE AND TO QUALIFY FOR THE MOBILITY FUND PHASE I
(AUCTION 901) ON THE NAVAJO NATION**

NTUA WIRELESS, LLC (“NTUA Wireless”) a telecommunications service provider on the Navajo Nation, majority owned by the Navajo Tribal Utility Authority (“NTUA” or “Navajo Tribal Utility Authority”), respectfully submits this Amendment to its original Petition for Designation as an Eligible Telecommunications Carrier¹ (“ETC”), pursuant to Section 214(e)(6)

¹ NTUA Wireless filed its Petition for ETC designation with the FCC in this proceeding on March 3, 2011 and filed a Correction to the Petition on August 18, 2011.

of the Communications Act of 1934, as amended (“Act”), for purposes of receiving federal universal service support as an ETC to provide Lifeline service throughout its service area within the boundaries of the Navajo Nation.² Granting NTUA Wireless’ ETC Petition will significantly benefit the Navajo Nation and its people by, among other things:

- (a) Enabling a majority-owned Navajo enterprise, whose top priority is serving the Navajo people, to provide telecommunications services to the Navajo people;
- (b) Expanding the expertise and resources of the Navajo Tribal Utility Authority to address the communications and employment needs of the Navajo Nation residents;
- (c) Qualifying NTUA Wireless for Auction 901;³ and

² *Eligible Telecommunications Carrier Designation for Participation in Mobility Fund Phase I*, FCC Public Notice in WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, DA 12-127 (rel. Feb. 24, 2012), as modified by Erratum, FCC Public Notice in WC Docket No. 09-197, WT Docket No. 10-208, AU Docket No. 12-25, DA 12-271 (rel. Feb. 27, 2012); *Mobility Fund Phase I Auction Scheduled For September 27, 2012; Comment Sought On Competitive Bidding Procedures For Auction 901 and Certain Program Requirements*, FCC Public Notice in AU Docket No. 12-25, DA 12-121 (rel. Feb. 2, 2012) (the “Phase I Auction”). Unserved areas would be as defined by the Wireless Telecommunications Bureau. See Public Notice, *Mobility Fund Phase I Auction; Additional Data Formats of Eligible Census Blocks*, DA 12-721, released May 8, 2012.

³ Consistent with Section 1.21002 of the Commission’s Rules, nothing in this Amendment should be construed as a commitment to participate in the Mobility Fund Auction 901 nor, if participating, the geographic areas or amounts that would be the subject of any bid. This Amendment seeks only to satisfy a condition to auction eligibility.

- (d) Providing low-income consumers throughout the NTUA Wireless service area within the Navajo Nation with access to discounted Lifeline telephone service tailored to their needs.

I. BACKGROUND

NTUA Wireless submitted its initial petition ("Petition") in this docket on March 3, 2011. Subsequently, NTUA Wireless filed a Correction to its initial Petition on August 18, 2011. NTUA Wireless' Petition is unopposed by any other party and the record is long-closed. In light of the release by the Federal Communications Commission ("FCC" or "Commission") of the Report and Order amending the Lifeline rules⁴ and the upcoming Mobility Fund Phase I Auction,⁵ NTUA Wireless submits this amendment to its original ETC Petition to ensure compliance with the amended Lifeline rules, the Auction 901 eligibility requirements and consistency with the revised ETC application requirements.

The Commission has scheduled the Mobility Fund Phase I Auction for September 27, 2012. The Commission in its May 2, 2012 Public Notice addressing the Filing Requirements and Other Procedures for Auction 901 states that "A Tribal entity may participate provided it has

⁴ *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, WC Dkt. Nos. 11-42 *et al.*, CC Dkt. No. 96-45, FCC 12-11 at ¶ 98 (rel. Feb. 6, 2012) (*Lifeline Reform Order*).

⁵ *Mobility Fund Phase I Auction Scheduled for September 27, 2012, Notice and Filing Requirements and Other Procedures For Auction 901*, AU Docket No. 12-25, Public Notice, 27 FCC Rcd 4725 (2012) (*Mobility Fund Public Notice*).

applied for designation as an ETC for the relevant area and that application is still pending. Any such entity must still receive designation prior to support being awarded.” Mobility Fund Public Notice, para. 32, fn67 (emphasis added). Therefore, NTUA Wireless requests that the Commission grant its ETC Petition, as amended herein, as soon as possible.

NTUA WIRELESS

NTUA Wireless is a limited liability company (“LLC”) that was created by the Navajo Tribal Utility Authority and Commnet Wireless LLC (“Commnet”). NTUA Wireless is majority-owned by NTUA, a Tribal enterprise of the Navajo Nation.⁶ NTUA is contributing, among other things, various existing infrastructure assets, intellectual property, and NTUA office locations to optimize the development of a retail wireless telecommunications business. NTUA Wireless will contract to utilize current and future NTUA-owned backhaul infrastructure throughout the Navajo Nation.

By utilizing existing NTUA resources and partnering with Commnet, an established wireless service provider, NTUA Wireless will be uniquely positioned to offer competitive retail

⁶ As set forth in Title 21, Sections 5 and 7 of the Navajo Code, NTUA’s governing board exercises its authority in the best interests of the Navajo Nation and is “authorized to direct the operations to accomplish the purposes” of promoting telecommunications services. Moreover, NTUA’s governing board is empowered with “the capacity to act ... to accomplish the purposes of 21 N.N.C. § 5” which include promoting telecommunications services to the residents of the Navajo Nation, and the NTUA board is authorized to “act in any state, territory, district, or possession of the United States ... for and on behalf of the tribal enterprise.” See 21 N.N.C. § 7(b)(2) and (4). Accordingly, NTUA is a unit of the Navajo Nation government, analogous to the way that the Tennessee Valley Authority is a unit of the United States government and simultaneously a utility operator.

wireless telecommunications services within the Navajo Nation. NTUA Wireless will utilize the utility business expertise of NTUA to offer a deeper penetration of retail wireless telecommunications service into the Navajo Nation. Further, NTUA Wireless will provide jobs for Tribal members. In an area of the country with an unemployment rate that exceeds 52% (which far exceeds the current national U.S. average unemployment rate of 8.3%), NTUA Wireless will employ Navajo citizens in technical and retail jobs and grow the telecommunications expertise of the Navajo people.

NTUA Wireless' assets include spectrum usage authorizations and infrastructure equipment of Commnet that are located in the Navajo Nation and several surrounding communities. Commnet also is contributing services related to NTUA Wireless' wholesale telecommunications business and retail operations, including, importantly, piggybacking onto the automatic roaming arrangements that Commnet has with all four major domestic commercial mobile radio services ("CMRS") providers, as well as with over a hundred other domestic and international providers.⁷ Commnet is contributing these assets to NTUA Wireless as part of its minority ownership interest in NTUA Wireless. NTUA Wireless' board consists of both NTUA and Commnet representatives.

⁷ Thus customers will have automatic roaming when they travel outside the NTUA Wireless service area.

Because of its composition, NTUA Wireless has a first-hand understanding of the setting and how to overcome the challenges of providing utility services to the Navajo Nation. Therefore, NTUA Wireless is uniquely qualified to provide unserved areas and low income residents much-needed wireless telecommunications services tailored to the needs of the Navajo Nation. The Navajo Nation covers a land area of over 27,000 square miles and extends into all or part of 13 counties in the states of Arizona, New Mexico and Utah. The vast scale of the Navajo Nation, along with its remote and isolated nature, has constrained the penetration of communication services and utility services to much of the Navajo Nation in the past, thus resulting in many unserved areas. NTUA Wireless will uniquely be able to address this challenge in part by leveraging a large-scale telecommunications infrastructure project, which NTUA is currently constructing.

ETC designation for both Lifeline service support and for purposes of the Phase I Auction is critically important for NTUA Wireless. ETC designation will allow NTUA Wireless to seek funding for infrastructure development and operational costs in unserved areas and enable Lifeline service to Tribal residents throughout the NTUA Wireless service area of the Navajo Nation. It will also lead to improvements on the Navajo Nation by facilitating much needed local technical and sales jobs. NTUA Wireless will exclusively focus on the needs of

residents of the Navajo Nation, including the need for local 911 emergency services, service to unserved areas, and affordable voice and data services.

II. THE COMMISSION HAS JURISDICTION OVER THIS PETITION FOR ETC DESIGNATION.

The Commission established a process for carriers seeking ETC designation on Tribal lands in which a carrier submits an application with the Commission demonstrating that the carrier is subject to the jurisdiction and laws of the Tribe and not subject to the jurisdiction of the state commissions.⁸ As demonstrated herein and in its initial Petition, NTUA Wireless is subject to the laws of the Navajo Nation and the jurisdiction of Navajo Nation Telecommunications Regulatory Commission (“NNTRC”). The NNTRC is the Navajo Nation’s telecommunications regulatory authority.

A. THE NAVAJO NATION HAS INHERENT AUTHORITY OVER ALL ECONOMIC AFFAIRS ON THE NAVAJO NATION AND THE NAVAJO NATION TELECOMMUNICATIONS REGULATORY COMMISSION ADDRESSES TELECOMMUNICATIONS MATTERS.

The government of the Navajo Nation exercises authority over the commercial activities that occur within the Navajo Nation by virtue of its inherent Tribal sovereignty, as recognized in

⁸ Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208 (2000).

binding treaties with the United States government and reiterated in the Navajo Nation Code. Specifically, the Treaty of 1868 preserves inherent Tribal sovereignty to the Navajo Nation and provides the basis of territorial civil jurisdiction over, *inter alia*, economic affairs.⁹ Courts, including the U.S. Supreme Court, have guarded the authority of the Navajo Nation over its jurisdiction, including over economic affairs, and Congress has recognized such authority in its Treaty of 1868.¹⁰

The Navajo Nation established the NNTRC in 1985, pursuant to Tribal Council Resolution ACAP-62-85. The Navajo Nation Code recognizes the ability of the Navajo Nation to exercise jurisdiction over commercial activities within the Navajo Nation. Section 201 of Title 5 of the Navajo Nation Code explains that the Navajo Nation's sovereign status authorizes the Navajo Nation "to regulate all commercial activities within the Navajo Nation, including those of non-Indians and non-member Indians, [and that] engaging in business within the Navajo Nation is a privilege granted by the Navajo Nation" subject to applicable federal law.¹¹ Similarly, the same section of the Navajo Nation Code pronounces the "Navajo Nation's

⁹ See generally, Treaty of Fort Sumner with the Navajo Tribe, June 1, 1868, 15 stat. 667.

¹⁰ See, e.g., *Williams v Lee*, 358 U. S. 217, 223 (1959).

¹¹ 5 N.N.C. § 201(B)(7) (2008).

authority to regulate the conduct and operations of business within the Navajo Nation,” subject to applicable laws of the United States.¹²

As the Navajo Nation Code explains, “by virtue of its inherent sovereign powers, [the Navajo Nation] has the authority to assert jurisdiction over telecommunications not preempted by applicable law and regulation of the federal government of the United States.”¹³ Pursuant to this authority, the Navajo Nation established the NNTRC. From its establishment, the NNTRC was created to “act upon and regulate any and all matters of the telecommunications industry on the Navajo Nation, including ... telecommunications services transmitted by ... wireless technology ... and provide orderly growth and development of the telecommunications industry, and the operations thereby.”¹⁴

B. THE STATES DO NOT HAVE JURISDICTION OVER NTUA WIRELESS

The Navajo Nation includes a geographic area that covers portions of Arizona, New Mexico, and Utah. NTUA Wireless periodically coordinates with the state regulatory commissions in Arizona, New Mexico and Utah. The Commission has previously exercised jurisdiction under 47 U.S.C. § 214(e)(6) and designated telephone companies in Arizona

¹² *Id.*

¹³ 21 N.N.C. § 502 (2008).

¹⁴ 2 N.N.C. § 3452 (2008). The NNTRC is further empowered by the Navajo Nation to establish methods and conditions of accessing permits for telecommunications services on the Navajo Nation.

proposing ETC areas co-terminous with Tribal lands boundaries as ETCs.¹⁵ Similarly, NTUA Wireless comes before this Commission for designation as an ETC for an area co-terminous with the Navajo Nation Tribal lands.¹⁶

III. NTUA WIRELESS MEETS THE STATUTORY AND REGULATORY PREREQUISITES FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER ON THE NAVAJO NATION.

NTUA Wireless satisfies each of the statutory and regulatory prerequisites set forth in the Act and the rules and orders of the Commission to be designated as an ETC, for the purpose of providing Lifeline service throughout its service area in the Navajo Nation, and to provide its full complement of services in those areas of the Navajo Nation, if any, where it may be the successful Mobility Fund Phase I bidder.

A. NTUA WIRELESS IS A COMMON CARRIER.

NTUA Wireless will provide CMRS throughout its requested designated service area and, as a CMRS provider, NTUA Wireless is regulated as a common carrier. NTUA Wireless therefore meets the ETC requirement of being a common carrier.

¹⁵ Designation of Hopi Telecommunications, Inc. as an Eligible Telecommunications Carrier for the Hopi Reservation, Memorandum and Order, CC Docket No. 96-45 (2007).

¹⁶ As noted, NTUA Wireless will be subject to the jurisdiction of the NNTRC, the same as other ETCs are subject to the jurisdiction of their respective state public utility commissions.

B. NTUA WIRELESS WILL OFFER THE SUPPORTED SERVICES THROUGH A COMBINATION OF FACILITIES-BASED AND (IF NECESSARY) RESALE OR ROAMING.

NTUA Wireless will provide the supported services specified in Section 54.101(a) of the Commission's Rules, as described herein and in the initial Petition, throughout its service area in the Navajo Nation and all its services in any unserved area where it is the successful Mobility Fund Phase I bidder designated area using its own facilities and resale or roaming if necessary. NTUA Wireless' facilities will include its cellular network infrastructure, which consists of switching, trunking, cellular sites and network equipment.

C. NTUA WIRELESS WILL OFFER ALL OF THE SERVICES AND FUNCTIONALITIES SUPPORTED BY THE UNIVERSAL SERVICE PROGRAM

1. *Voice Grade Access To The Public Switched Telephone Network*

NTUA Wireless offers customers voice grade access to the Public Switched Telephone Network as required by Section 54.101(a)(1) of the Commission's Rules. "Voice grade access" permits a telecommunications user to transmit voice communications, including signaling the network that the caller wishes to place a call, and receive voice communications, including receiving a signal that there is an incoming call. NTUA Wireless will provide its customers "voice grade access" by providing mobile voice communications services and by enabling such customers to make and receive calls on the Public Switched Telephone Network.

2. *Local Usage.*

NTUA Wireless' services will include local usage that allows customers to originate and terminate calls within a local calling area without incurring toll charges. NTUA Wireless will offer service plans that include varying amounts of local usage and will comply with any and all minimum local usage requirements the Commission may adopt with respect to universal service offerings. Further, NTUA Wireless plans will offer consumers numerous benefits, such as including larger "local" calling areas, and free value-added features, such as caller ID; three-way calling and call waiting. Therefore, NTUA Wireless satisfies the local usage requirement for designation as an ETC.

3. Access to Emergency Services.

"Access to emergency services" includes access to services, such as 911 and enhanced 911 ("E-911"), provided by local governments or other public safety organizations. NTUA Wireless will provide its voice customers in the ETC Designation Area access that is capable of delivering automatic numbering information ("ANI") and automatic location information ("ALI") over its existing network to public service access points ("PSAPs") that are capable of receiving and process such information in satisfaction with applicable state and federal E-911 requirements.

4. Toll Limitation.

"Toll limitation" includes the offering of either "toll control" or "toll blocking" to qualifying low-income customers, as a means of limiting or blocking the completion of outgoing toll calls. Section 54.401(a)(2) of the Commission's adopted rules provides that toll limitation service is not necessary for any Lifeline service that does not distinguish between toll and non-toll calls in

the pricing of the service. NTUA Wireless' calling plans do not distinguish between local and toll calls at the point of dialing, and there is no additional charge within its plans for any call that would otherwise be considered a toll call. However, if for any reason NTUA Wireless changes the structure of its service plans to distinguish between local and toll calls, NTUA Wireless will meet the toll limitation requirement by providing toll blocking.

D. NTUA WIRELESS WILL ADVERTISE THE AVAILABILITY OF AND CHARGES FOR ITS UNIVERSAL SERVICE OFFERINGS

In accordance with Section 214(e)(1)(B) of the Act and Section 54.201(d)(2) of the Commission's Rules, NTUA Wireless commits to advertise the availability of, and charges for Lifeline service throughout its service area in the Navajo Nation, and all its services in any unserved area where it is the successful Mobility Fund Phase I bidder, utilizing local media and promotional events that are applicable and appropriate for the Navajo Nation. Since many potential users reside in relatively remote communities, access to generally recognized electronic and print media is severely limited. For example, the broadband penetration rate is below 10% and unavailable outside of the larger communities. There are no local television or cable services and the single newspaper has a bi-weekly circulation with limited distribution. The most effective advertising on the Navajo Nation is conducted via radio outlets, direct-mail, and through local Chapter Houses, which are the focal point for community outreach and local commerce. Consequently, NTUA Wireless advertising plan includes, but is not limited to:

Direct Mail- Postcards distributed to general PO Box holders throughout the proposed service area.

NTUA – Notices included within NTUA utility billing that reaches more than 30,000 households.

Display Posters and flyers- Distributed to Chapter Houses and other public facilities, such as Health Clinics, Senior Centers, etc.

Radio Advertising- Targeted radio announcements of service offerings and sales promotions.

Print Media- Display ads with general and targeted promotions in local and area newspapers, including the following:

Navajo Times (bi-weekly)

Gallup Independent (Daily)

Farmington Times (Daily)

Hopi-Navajo Observer

In addition, NTUA Wireless will launch with (6) retail store outlets throughout its proposed ETC designated service area, which will be housed within key NTUA customer service and bill collection centers. These facilities are conveniently located in the communities of Ft. Defiance, Chinle, Shiprock, Kayenta, Tuba City, and Dilkon. NTUA Wireless will use these

media outlets to advertise its universal service offerings in a manner consistent with applicable requirements. NTUA Wireless will conduct mobile promotional activation events throughout the service area at select Chapter locations, as well as flea markets, sporting, and other public events. These events will be announced well in advance via all available forms of advertising.

E. NTUA WIRELESS WILL SATISFY ITS ADDITIONAL OBLIGATIONS AS AN ETC.

In addition to those requirements set forth in Section 54.201 of the Commission's Rules, NTUA Wireless will satisfy other ETC requirements adopted by the Commission. In particular:

1. *Commitment to Comply With Applicable Service Requirements [47 C.F.R. §54.202(a)(1)(i)].*

NTUA Wireless certifies that it will provide voice telephony service using its standard customer equipment (handsets/wireless devices) throughout the proposed ETC service area. This service will meet the requirements of Section 54.101 discussed in Section III.C, including voice grade access, local service, and access to emergency services.

2. *Service Improvement Plan [47 C.F.R. §54.202(a)(1)(ii)].*

NTUA Wireless filed a five year service improvement plan with its initial Petition seeking ETC designation. Further, NTUA Wireless certifies that it will use any Mobility Fund Phase I support that it receives via Auction 901 to make improvements in unserved areas for which it is the successful bidder to achieve the performance requirements established by the Commission.

3. *Ability to Remain Functional in an Emergency [47 C.F.R. § 54.202(a)(2)].*

NTUA Wireless is a facilities-based wireless telecommunications carrier with its own switching, transport, cell sites, and associated telecommunications facilities in the proposed designated ETC service area. NTUA Wireless will be able to function in emergency situations as set forth in Section 54.201(a)(2), which includes a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. In particular, NTUA Wireless will have the following capabilities to remain functional in emergency situations:

- Availability of fixed and portable back-up power generators at various network locations throughout NTUA Wireless' network that can be deployed in emergency situations.
- Ability to reroute traffic around damaged or out-of-service facilities through the deployment of cell-on-wheels ("COWs"), redundant facilities, and dynamic rerouting of traffic over alternate facilities.
- A network control center that monitors network traffic and anticipates traffic spikes, and can then (i) deploy network facilities to accommodate capacity needs, (ii) change call routing translations, and (iii) deploy COWs to temporarily meet traffic needs until longer-term solutions, such as additional capacity and antenna towers, can be deployed.
- Sites not equipped with fixed generators typically have battery back-up systems installed to maintain service in the event of a widespread power outage.

4. *Satisfaction of Applicable Consumer Protection and Service Quality Standards [47 C.F.R. § 54.202(a)(3)].*

Pursuant to 47 CFR § 54.202(a)(3), an ETC applicant is required to demonstrate that it will satisfy applicable consumer protection and service quality standards. In this regard, NTUA Wireless commits that it will comply with the CTIA Consumer Code for Wireless Service.

5. Financial and Technical Capability to Provide Lifeline Service [47 C.F.R. §54.202(a)(4)].

As described in this petition, NTUA Wireless is an LLC that is majority owned by the NTUA and minority owned by Commnet, a subsidiary of Atlantic Tele-Network, Inc. (“ATNI”). Both the NTUA and ATNI, the parent of Commnet have the financial and technical capability to provide Lifeline service. As demonstrated above, these entities have brought together each others’ operational experience and financial and technical resources to create a unique partnership. The NTUA has been providing utility services in the Navajo Reservation since 1959 and ATNI subsidiaries currently provide Lifeline service in 6 states and the U.S. Virgin Islands. Further, NTUA Wireless also certifies that it is financially and technically qualified to provide, and intends to provide, broadband services meeting the Commission's requirements, *i.e.*, either 3G service in the supported areas within two years after the date NTUA Wireless is authorized to receive Mobility Fund Phase I support, or 4G service within three years after such date.

6. Service Plan Terms and Conditions [47 C.F.R. §§ 54.202(a)(5), 54.401(d)].

NTUA Wireless will offer several wireless voice and data service plans specifically designed to meet the needs of Tribal customers residing on the Navajo Reservation. NTUA Wireless is currently building the most expansive and robust 4G LTE network on the Navajo

Reservation. On March 25, 2010, NTUA was notified of its selection under the U.S. Department of Commerce's Broadband Initiative for funding to build an extensive, pioneering broadband infrastructure on the Navajo Nation ("Navajo Nation Middle/Last Mile Project" or "Project"). Commnet was NTUA's partner in the Navajo Nation Middle/Last Mile Project, and with the consent of the U.S. Department of Commerce, NTUA Wireless was substituted for Commnet as the last-mile partner. The Project is being funded using a combination of grant funding from the U.S. Department of Commerce and matching funds provided by NTUA and Commnet Wireless. Construction of the Navajo Nation Middle/Last Mile Project is mostly complete and the retail service will be offered in the First Quarter of 2013. The last-mile portion of the Project will include 700 MHz LTE cell sites, subsidized wireless internet access hardware and laptop computers for those who need them, retail facilities integrated into NTUA's existing retail outlets, and customer service personnel. The project will enable fixed and mobile broadband service to over 30,694 households and 1,000 businesses in 15 of the largest communities on the Navajo Nation and provide wireless broadband coverage to 72% of the residences on the Navajo Nation. NTUA will leverage this new communications infrastructure to serve the Navajo Nation with reliable, high-performance wireless telecommunications services through NTUA Wireless.

However, given that the Navajo Nation has an unemployment rate over 52%—more than six times the U.S. average—and more than 40% of the Navajo families are below the poverty line and the average per capita income on the Navajo Nation is \$7,269, as compared to the U.S. average per capita income of \$30,547, affordability is a critical barrier to adoption rates on the

Navajo Nation. Therefore, without an ETC designation enabling NTUA Wireless to receive support for Lifeline service, some residents will not be able to afford service.

7. Service Initiation Deposits [47 C.F.R. § 54.401(c)].

NTUA Wireless will not collect service deposits for its plans, and will not do so for Lifeline accounts.

8. Number-Portability Charges [47 C.F.R. § 54.401(e)].

NTUA Wireless will not charge a number-portability fee, and will not do so for Lifeline accounts.

9. Lifeline Certification and Verification [47 C.F.R. § 54.410].

NTUA Wireless will certify and verify consumer eligibility of customers to participate in the Lifeline and Link-Up programs in accordance with the Commission's rules. In instances where a state agency or third-party administrator is responsible for the initial determination and annual recertification of consumer eligibility, NTUA Wireless will rely on the state identification or database.¹⁷ In instances where NTUA Wireless is responsible for the initial determination and annual recertification of consumer eligibility, NTUA Wireless will follow the procedures set forth below.

1. One-Per-Household

NTUA Wireless understands that Lifeline is limited to a single subscription per household, and that the Commission has defined household as "any individual or group of

¹⁷ See *Lifeline Reform Order* at ¶ 98.

individuals who are living together at the same address as one economic unit.”¹⁸ Upon receiving an application for Lifeline support, NTUA Wireless will check the duplicates database, once in place, to determine whether an individual at the applicant’s residential address is currently receiving Lifeline-supported service. NTUA Wireless will also search its own internal database of active customers to ensure that it does not already provide Lifeline-supported service to someone at that residential address. If NTUA Wireless determines that an individual at the applicant’s address is currently receiving Lifeline-supported service, NTUA Wireless will take an additional step to ensure that the applicant and the current subscriber are part of different households. To enable applicants to make this demonstration, NTUA Wireless will require applicants to complete USAC’s one-per-household template and submit it to NTUA Wireless. NTUA Wireless has attached to this filing as Exhibit A its draft one-per-household form. The proposed form contains the following: (1) an explanation of the Commission’s one-per-household rule; (2) a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) a space for the applicant to certify that he or she shares an address with other adults who do not contribute income to the applicant’s household and share in the household’s expenses or benefit from the applicant’s income; and (4) the penalty for a consumer’s failure to make the required one-per-household certification (*i.e.*, de-enrollment).¹⁹ NTUA Wireless confirms that it will deny the Lifeline application of any

¹⁸ *See id.* at ¶ 74.

¹⁹ *See id.* at ¶ 78.

individual residing at the same address as a current Lifeline subscriber who is part of the same household, and will advise the applicant of the basis for the denial.

2. Temporary Address/Change of Address

NTUA Wireless will seek to obtain a consumer's permanent residential address (which cannot be a P.O. Box or General Delivery address) unless they only have a temporary address, and a billing address for the service, if different (which may include a P.O. Box or General Delivery address).²⁰ NTUA Wireless will inquire on its certification forms whether or not the applicant's address is a temporary one.²¹ If it is, NTUA Wireless will notify the consumer that NTUA Wireless will contact the consumer every 90 days, by phone or text, to verify that he or she continues to rely on that address, and that if the consumer fails to respond within 30 days of NTUA Wireless' attempt to verify the temporary address, he or she will be de-enrolled from the Lifeline program.²² Also on its certification forms, NTUA Wireless will explain that if the subscriber moves, they must provide their new address to NTUA Wireless within 30 days of moving.²³ If the subscriber has moved, NTUA Wireless will update the duplicates database, once in place, with the information within 10 business days of receipt of the information.²⁴

²⁰ *See id.* at ¶ 85.

²¹ *See id.* at ¶ 89.

²² *See id.* at ¶ 89. As of the date of this filing, the Office of Management and Budget (OMB) has not yet approved this provision. NTUA Wireless will comply with this provision if and when it becomes effective, following OMB approval.

²³ *See id.* at ¶ 85.

²⁴ *See id.*

3. Initial and Annual Certification

Consumers will be signed up in person or directed, via company literature, collateral or advertising, to a toll-free telephone number and to the NTUA Wireless website, which will provide information regarding NTUA Wireless' Lifeline service plans, including a detailed description of the program and eligibility criteria. NTUA Wireless will provide Lifeline-specific training to all personnel, whether employees, agents or representatives, who interact with actual or prospective consumers with respect to obtaining, changing or terminating Lifeline services.

NTUA Wireless' initial and annual certification forms will conform to the list of requirements provided in C.F.R. § 54.410(d), as amended. NTUA Wireless has attached to this filing as Exhibit B a draft Lifeline application/initial certification form. Additionally, once NTUA Wireless is designated as an ETC, it will provide the Lifeline application/initial certifications in both English and Navajo languages. NTUA Wireless' Lifeline application/initial certification forms will require each prospective subscriber to provide the following information:

- (i) The subscriber's full name;
- (ii) The subscriber's full residential address;
- (iii) Whether the subscriber's residential address is permanent or temporary;
- (iv) The subscriber's billing address, if different from the subscriber's residential address;
- (v) The subscriber's date of birth;
- (vi) The subscriber's social security number, or the subscriber's Tribal identification number, if the subscriber is a member of a Tribal nation and does not have a social security number;
- (vii) If the subscriber is seeking to qualify for Lifeline under the program-based criteria, as set forth in § 54.409, the name of the qualifying assistance program from which the subscriber, his or her dependents, or his or her household receives benefits; and

- (viii) If the subscriber is seeking to qualify for Lifeline under the income-based criterion, as set forth in § 54.409, the number of individuals in his or her household.

Further, the Lifeline application/initial certification forms will also explain in clear, easily understandable language in both English and Navajo that:

- (i) Lifeline is a federal benefit;
- (ii) Lifeline service is available for only one line per household;
- (iii) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;
- (iv) households are not permitted to receive benefits from multiple providers;
- (v) that violation of the one-per-household requirement would constitute a violation of the Commission's rules and would result in the consumer's de-enrollment from the program, and potentially, prosecution by the United States government; and
- (vi) a Lifeline subscriber may not transfer his or her service to any other individual, including another eligible low-income consumer.

NTUA Wireless will also require all consumers, at sign up and annually thereafter, to certify under penalty of perjury that:

- (i) The subscriber meets the income-based or program-based eligibility criteria for receiving Lifeline, provided in § 54.409;
- (ii) The subscriber will notify the carrier within 30 days if for any reason he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the subscriber no longer meets the income-based or program-based criteria for receiving Lifeline support, the subscriber is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit.
- (ii) If the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, he or she lives on Tribal lands, as defined in 54.400(e);
- (iv) If the subscriber moves to a new address, he or she will provide that new address to the eligible telecommunications carrier within 30 days;
- (v) If the subscriber provided a temporary residential address, he or she will be required to verify his or her temporary residential address every 90 days;

- (vi) The subscriber's household will receive only one Lifeline service and, to the best of his or her knowledge, the subscriber's household is not already receiving a Lifeline service;
- (vii) The information contained in the subscriber's certification form is true and correct to the best of his or her knowledge;
- (viii) The subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and
- (ix) The subscriber acknowledges that the subscriber may be required to re-certify his or her continued eligibility for Lifeline at any time, and the subscriber's failure to re-certify as to his or her continued eligibility will result in de-enrollment and the termination of the subscriber's Lifeline benefits pursuant to § 54.405(e)(4).

Applicants will also be required to initial a number of disclosure statements intended to ensure that the applicant understands applicable eligibility requirements. Consumers who do not complete the application/initial certification process in person must return the signed application and support documentation to NTUA Wireless by mail, fax, email or other electronic transmission. NTUA Wireless will accept electronic signatures, including Interactive Voice Response (IVR) recordings, that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 USC 7001-7006.²⁵

When a prospective customer applies for Lifeline service in person, NTUA Wireless personnel will ask to see a government issued ID/proof of eligibility and will validate the address. NTUA Wireless personnel will input the name/address combination into the company's aggregate duplicate database to confirm that the applicant is not already receiving a Lifeline subsidy from NTUA Wireless. In cases where a state eligibility database exists, store personnel will contact the Company's internal group dedicated to verifying eligibility who will query the

²⁵ See *id.* at ¶ 168.

database and either approve or deny the applicant. In states where eligibility databases are not available, the applicant is required to provide proof of participation in one of the Lifeline eligible programs or proof that their annual household income is at or below 135% of the federal poverty guidelines. NTUA Wireless' Lifeline application/initial certification form contains an "Office Use Only" section, which must be completely filled out and signed by NTUA Wireless personnel in order to record information about the specific documentation reviewed as part of the eligibility verification process. Eligibility documents are returned to the customer after review. Finally, NTUA Wireless personnel will be available to verbally explain, in either English or Navajo, the certifications to consumers before they initial the required disclosures and sign the application. Once the Lifeline application is complete, it is scanned into NTUA Wireless' database. Upon successful completion of the certification process, the customer is enrolled in NTUA Wireless' Lifeline plan.

With respect to those enrolling via the phone, NTUA Wireless personnel are able to verbally explain, in either English or Navajo, the Lifeline program and its eligibility requirements, including required information and disclosures, as well as collect and input electronically the application form information and obtain the applicant's signature via IVR. NTUA Wireless then has the information needed to qualify the applicant by accessing necessary databases (duplicates database, eligibility databases). Upon receipt of copies of the applicant's proof documentation, if applicable, and government-issued ID, NTUA Wireless is able to

complete the eligibility verification process and deliver phones to eligible customers by mail, at NTUA District Offices and NTUA Wireless Customer Centers.

When enrolling via the Internet, prospective customers will be able to fill out an application form online and sign electronically. NTUA Wireless will highlight the certifications that are required, for example, by requiring consumers to acknowledge each certification before moving on to the next field.²⁶ NTUA Wireless will qualify the applicant by accessing necessary databases (duplicates database, eligibility databases). Upon receipt of copies of the applicant's proof documentation, if applicable, and government-issued ID, NTUA Wireless is able to complete the eligibility verification process and deliver phones to eligible customers by mail at NTUA District Offices and NTUA Customer Centers.

NTUA Wireless will determine eligibility utilizing the income and program criteria currently described in federal regulations. *See* 47 C.F.R. §§ 54.409(a),(b), as well as any additional state-specific criteria. Prior to enrolling a new subscriber, NTUA Wireless will check the eligibility of low-income consumers first by accessing state or federal social services electronic eligibility databases, where available.²⁷ If a database is used to establish eligibility, NTUA Wireless will not require documentation of the consumer's participation in a qualifying federal program; instead, NTUA Wireless or its representative will note in its records what

²⁶ *See id.* at ¶ 123.

²⁷ *See id.* at ¶ 97.

specific data was relied upon to confirm the consumer's initial eligibility for Lifeline.²⁸ However, where such information is not available, NTUA Wireless will review documentation to determine eligibility for new subscribers until such time as a qualifying eligibility database is available.²⁹ NTUA Wireless will require acceptable documentation both for income eligibility and for program eligibility. NTUA Wireless will not retain copies of the documentation but rather will establish policies and procedures to review such documentation and keep accurate records detailing how the consumer demonstrated his or her eligibility.³⁰ NTUA Wireless understands that it may permit agents or representatives to review documentation of consumer program eligibility for Lifeline, and in such cases NTUA Wireless remains liable for ensuring the agent or representative's compliance with the Lifeline program rules.³¹

NTUA Wireless provides employees with training designed to give them an understanding of Lifeline program requirements and permit them to review customer documentation and determine whether it is sufficient to establish a customer's eligibility to participate in the Lifeline program under the Commission's rules. No NTUA Wireless employee may accept a Lifeline application unless he or she has first completed this training program and demonstrated an understanding of the underlying material. Among other things, the Lifeline program training discusses NTUA Wireless' Lifeline application/initial certification form (*see*

²⁸ *See id.* at ¶ 98.

²⁹ *See id.* at ¶ 99.

³⁰ *See id.* at ¶ 101.

³¹ *See id.* at ¶ 110.

Exhibit B) on a section-by-section basis. The training explains what sections of the form must be completed by the customer and reviews the form disclosures in detail, to facilitate an employee's ability to explain each item contained therein and answer any customer questions.

4. Annual Re-Certification

NTUA Wireless understands that it must re-certify the eligibility of its entire Lifeline subscriber base each year after the ETC designation is granted and report the results to USAC by January 31 of the following year, and NTUA Wireless may elect to perform this re-certification on a rolling basis throughout the year.³² By December 31, of the same year, NTUA Wireless will re-certify the continued eligibility of all of its subscribers by contacting them—either in person, in writing, by phone, by text message, by email, or otherwise through the Internet—to confirm their continued eligibility.³³ The re-certification notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact NTUA Wireless. NTUA Wireless will obtain a signed certification from the subscriber that meets the certification requirements of 47 C.F.R. § 54.410(d), as amended. NTUA Wireless will provide written notice of impending service termination to subscribers who do not respond to the annual re-certification within 30 days. NTUA Wireless understands that such certifications may be obtained through a written format, an IVR system, or a text message, and will use one or more

³² See *id.* at ¶ 130.

³³ See *id.*

of such options for its certifications.³⁴ Alternatively, where a database containing consumer eligibility data is available, NTUA Wireless (will instead query the database by the end of the year after the ETC designation is approved and maintain a record of what specific data was used to re-certify eligibility and the date of re-certification. If a subscriber's address cannot be verified through the data, NTUA Wireless will contact the subscriber every year during the annual certification process.³⁵ NTUA Wireless will annually certify the continued eligibility of its entire subscriber base, either by accessing a qualifying database, or by electing to have USAC administer the self-certification process on NTUA Wireless' behalf.³⁶

NTUA Wireless will certify its compliance with Commission rules on an annual Lifeline eligible telecommunications carrier certification form and when submitting FCC Forms 497 to USAC for reimbursement. As part of NTUA Wireless' submission of re-certification data pursuant to 47 C.F.R. § 54.416, an officer of NTUA Wireless will certify annually to USAC:

- (1) that NTUA Wireless has procedures in place to review consumers' documentation of income-and program-based eligibility. In instances where NTUA Wireless confirms consumer eligibility by relying on official program eligibility data, such as a state or federal database, an officer of NTUA Wireless will attest to what data NTUA Wireless uses to confirm consumer eligibility in each state, and
- (2) that NTUA Wireless is in compliance with all federal Lifeline certification

procedures.³⁷

³⁴ See *id.* at ¶ 132.

³⁵ See *id.* at ¶ 131.

³⁶ See *id.* at ¶ 133.

³⁷ See *id.* at ¶ 126-27.

A. Other Reforms to Eliminate Waste, Fraud and Abuse

NTUA Wireless is committed to taking steps to prevent customers from engaging in abuse of the program, inadvertently or intentionally. Therefore, NTUA Wireless will implement enrollment procedures designed to prevent subsidies for duplicate, ineligible, or inactive subscribers. NTUA Wireless has processes in place to ensure that it removes (1) any name/address that is already receiving a Lifeline subsidy from receiving a second Lifeline subsidy in that same month; and (2) that subsidies are requested only for active lines. Through the processes described herein, NTUA Wireless ensures that it does not over-request from support funds.

NTUA Wireless first validates each applicant's identity via a government issued ID card. Additionally, as mentioned above, NTUA Wireless requires the applicant to provide their date of birth (DOB) and their social security number (SSN), or the applicant's Tribal identification number if the subscriber is a member of a Tribal nation and does not have an SSN. Requiring DOB and SSN (or Tribal identification number) ensures that neither the applicant nor NTUA Wireless representative can forge certification forms based on false names and addresses. Once the applicant's identity is confirmed, NTUA Wireless verifies that the applicant is eligible to receive the Lifeline subsidy. To do this, NTUA Wireless checks available eligibility databases. If one is not available, the applicant is required to provide proof of income or program participation. This prevents ineligible applicants from receiving the subsidy.

NTUA Wireless verifies the address of the applicant via the applicant's government issued ID. Next the name/address combination is entered into the company's aggregate duplicate database to confirm that the applicant is not already receiving a Lifeline subsidy from NTUA Wireless. These steps prompt the representative to detail the one-per-household rule with the applicant.

1. National Lifeline Accountability Database

NTUA Wireless will participate in the National Lifeline Accountability Database, once it is established. As required by the *Lifeline Reform Order*, NTUA Wireless will provide to the database subscriber name, address, phone number, the last four digits of Social Security number, date of birth, Lifeline service initiation and de-enrollment date (when applicable), and amount of federal Lifeline support being sought for that subscriber.³⁸ NTUA Wireless will provide the information listed above for existing subscribers within 60 days of Commission notice that the database is capable of accepting subscriber information.³⁹

Furthermore, on its certification form, NTUA Wireless will obtain acknowledgement and consent from each of its subscribers that is written in clear, easily understandable language that the subscriber's name, telephone number, and address will be divulged to USAC (the

³⁸ *See id.* at ¶ 189.

³⁹ *See id.* at ¶ 190.

administrator of the program) and/or its agents for the purpose of verifying that the subscriber does not receive more than one Lifeline benefit.⁴⁰

Within 30 days following Commission notice that the database is capable of accepting queries, NTUA Wireless will query the database to check to see if a prospective subscriber is already receiving service from another ETC at a residential address prior to seeking reimbursement from the Universal Services Fund.⁴¹

2. Subscriber Usage

NTUA Wireless will not seek reimbursement from the Universal Services Fund for new subscribers until they have personally activated the service, either by initiation and/or actual use of the service by the subscriber. Furthermore, NTUA Wireless will not seek reimbursement from the Universal Services Fund for inactive subscribers who have not used the service for a consecutive 60-day period.⁴² NTUA Wireless will notify its subscribers at service initiation about the non-transferability of the phone service, its usage requirements, and the de-enrollment and deactivation that will result following non-usage in any 60-day period of time.⁴³ An account will be considered active if during any 60-day period the authorized subscriber does at least one of the following: makes a monthly payment; purchases minutes from NTUA Wireless to add to an existing pre-paid Lifeline account; completes an outbound call; answers an incoming call

⁴⁰ *See id.*, Appendix C.

⁴¹ *See id.* at ¶ 203.

⁴² *See id.* at ¶ 257.

⁴³ *See id.*

from anyone other than NTUA Wireless, its representative, or agent; or affirmatively responds to a direct contact from NTUA Wireless confirming that he or she wants to continue.⁴⁴

3. Audits

If NTUA Wireless draws \$5 million or more in the aggregate on an annual basis from the low-income program, as determined on a holding company basis taking into account all operating companies and affiliates, NTUA Wireless will hire an independent licensed certified public accounting firm to conduct a biennial audit according to government accounting standards to assess NTUA Wireless' overall compliance with the program's requirements.⁴⁵ NTUA Wireless will comply with applicable rules regarding the dissemination of audit findings to the Commission, USAC, and relevant state and Tribal governments within 30 days upon issuance.⁴⁶

B. De-Enrollment

NTUA Wireless will de-enroll consumers from its Lifeline program in the following instances, according to C.F.R. § 54.405(e):

1. Ineligibility.

Any subscriber who indicates that he or she is receiving more than one Lifeline-supported service per household, or neglects to make the required one-per-household

⁴⁴ See *id.* at ¶ 261.

⁴⁵ See *id.* at ¶¶ 291, 294. As of the date of this filing, the Office of Management and Budget (OMB) has not yet approved this provision. NTUA Wireless will comply with this provision if and when it becomes effective, following OMB approval.

⁴⁶ See *id.* at ¶ 294.

certification on his or her certification form, will be de-enrolled from Lifeline pursuant to the process for resolving duplicative Lifeline subscriptions described in section 54.405(e)(2).⁴⁷

If a customer does not respond to NTUA Wireless' annual verification survey within 30 days, or if NTUA Wireless has reasonable basis to believe that the subscriber no longer meets the Lifeline-qualifying criteria (including instances where a subscriber informs NTUA Wireless that he or she is ineligible for Lifeline), NTUA Wireless will provide a written notice of impending service termination to the subscriber and then give the subscriber 30 days after the date of the letter to demonstrate that his or her Lifeline service should not be terminated.⁴⁸ Similarly, NTUA Wireless will de-enroll a subscriber if they fail to respond to NTUA Wireless' attempt to verify a temporary address within 30 days.⁴⁹

2. Duplicative Support.

Subject to USAC's Duplicate Resolution Process and anticipated Duplicate Scrubbing Process,⁵⁰ NTUA Wireless will de-enroll a subscriber within 5 business days if NTUA Wireless is informed by USAC that the subscriber is receiving Lifeline service from another ETC or that more than one member of a subscriber's household is receiving Lifeline service.

⁴⁷ *See id.* at ¶ 122.

⁴⁸ *See id.* at ¶ 142.

⁴⁹ *See id.* at ¶ 89.

⁵⁰ *See id.* at ¶ 214-16.

3. *Non-Usage.*

NTUA Wireless will de-enroll any subscriber that has not used NTUA Wireless' Lifeline service for 60 consecutive days. NTUA Wireless will provide the subscriber 30 days' notice, using clear, easily understood language, whether in English or Navajo, that the subscriber's failure to use the Lifeline service within the 30-day notice period will result in service termination for non-usage; such notice may be initiated after 30-days of non-usage. NTUA Wireless will update the national database, once in place, within one business day of de-enrolling a subscriber for non-use and will submit a non-usage de-enrollment report annually to USAC.⁵¹

IV. NTUA WIRELESS' REQUESTED ETC SERVICE AREA FOR LIFELINE SERVICE IS ITS LICENSED SERVICE AREA WITHIN THE BOUNDARIES OF THE NAVAJO NATION AND FOR MOBILITY FUND PHASE I IT IS THE UNSERVED AREAS (IF ANY) FOR WHICH IT IS THE SUCCESSFUL PHASE I BIDDER

As identified in the Correction to the initial Petition, filed August 18, 2011, NTUA Wireless requests a designated service area that includes the area within the exterior boundaries of the Navajo Nation. Given that NTUA Wireless only seeks to serve areas within the exterior boundaries of the Navajo Reservation, and given the Commission's authority to grant such a request without redefinition, NTUA Wireless requests that the Commission expeditiously approve the ETC designation within the exterior boundaries of the Navajo Nation. NTUA Wireless attached as an exhibit to its original ETC Petition a list of the wire centers that fall

⁵¹ See *id.* at ¶ 257.

within the exterior boundaries of the Navajo Nation. NTUA Wireless notes that the list of wire centers has not changed.

The request for ETC designation for purposes other than Lifeline is contingent upon becoming the winning bidder in Auction 901, consistent with Section 54.1003 of the Rules, which states: “The applicant’s designation as an Eligible Telecommunications Carrier may be conditional subject to the receipt of Mobility Fund support.”

V. GRANT OF THIS PETITION WILL SERVE THE PUBLIC INTEREST

Grant of this Petition will significantly benefit the Navajo Nation and its people by enabling NTUA Wireless, which is majority owned by a Navajo Nation enterprise, to provide Lifeline service to members of the Navajo Nation who cannot otherwise afford telephone service by providing critical funding for Lifeline service in the Navajo Nation.⁵²

A. BENEFITS OF NTUA WIRELESS SERVING THE COMMUNICATIONS NEEDS OF THE NAVAJO PEOPLE

As mentioned above, NTUA Wireless understands the unique setting of the Navajo Nation and will provide much-needed wireless telecommunications services tailored to the needs of the Navajo Nation. The vast scale of NTUA’s service territory, along with its remote and isolated nature, has inhibited the penetration of communications and utility services to much of the Navajo Nation resulting in many without service. NTUA

⁵² As amended herein, the ETC application is ripe for immediate grant, which would eliminate any question of NTUA Wireless’ eligibility for the Mobility Fund Phase I Auction.

Wireless will uniquely be able to address this challenge in part by leveraging a large-scale telecommunications infrastructure project, which NTUA is currently constructing.

The ETC designation will greatly benefit life on the Navajo Nation by enabling NTUA Wireless to serve the communications needs of Navajo residents and provide much needed local technical and sales jobs. NTUA Wireless will exclusively focus on the needs of residents of the Navajo Nation, including the need for local 911 emergency service, service to unserved areas, and affordable voice and data services. Furthermore, NTUA Wireless promotes majority ownership by Navajo enterprises and creates a model to improve the quality of life for the Navajo people through economic development.

B. BENEFITS OF INCREASED COMPETITION

The benefits of competition are widely recognized and extend to all markets, including the universal service market, as recognized by the Commission:

We note that an important goal of the Act is to open local telecommunications markets to competition. Designation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies. We agree with Western Wireless that competition will result not only in the deployment of new facilities and technologies, but will also provide an incentive to the incumbent rural telephone companies to improve their existing network to remain competitive, resulting in improved service to Wyoming consumers [consumers in the proposed ETC service area]. In addition, we find that the provision of competitive service will facilitate universal service to the benefit of consumers in Wyoming by creating incentives to ensure that quality services are available at “just, reasonable, and affordable rates.”

In the Matter of the Federal-State Joint Board on Universal Service, Western Wireless Corp. Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming, CC Docket No. 96-45, Memorandum Opinion and Order, DA. 00-2896, ¶ 17 (rel. Dec. 26, 2000). Consumers rely on wireless services for their telecommunications needs. NTUA Wireless' designation as an ETC will result in consumers having greater access to wireless telecommunications services in rural areas, thereby advancing the basic goal of preserving and advancing universal service. *See* 47 U.S.C. § 254(b). In rural areas, the universal service goal is clear:

Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.

47 U.S.C. § 254(b)(3). To accomplish this goal, a competitive universal service framework has been established with consumers benefiting from competing carriers vying for their business based upon price, service offerings, coverage, and service quality. NTUA Wireless is uniquely positioned to serve the wireless needs of consumers in the Navajo Nation. Furthermore, NTUA Wireless being majority owned by an enterprise of the Navajo Nation positions the company to utilize the best practices of the Navajo Tribal Utility Authority in serving the needs of consumers in the Navajo Nation.

C. THE NAVAJO NATION GOVERNMENT SUPPORTS NTUA WIRELESS' ETC PETITION

NTUA Wireless attached as an exhibit to its original ETC Petition a letter dated March 1, 2011 from Navajo Nation Office of the President and Vice President, supporting NTUA Wireless' Petition for ETC designation on the Navajo Nation. That letter follows past statements of support on behalf of the Navajo Nation for NTUA Wireless to be designated as an Eligible Telecommunications Carrier for the Navajo Nation. NTUA Wireless continues to enjoy the support of the Navajo Nation Office of President and Vice President.

VI. CERTIFICATION FOR USE OF UNIVERSAL SERVICE FUNDS

NTUA Wireless certifies that it is financially and technically qualified to provide and intends to offer service in the supported areas in a timely manner under Commission Rules in Part 54, and will use any support it receives only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, in accordance with 47 USC § 254(e) and to achieve the performance requirements established by the Commission.⁵³ Further, NTUA Wireless has access to the spectrum to provide the services and will for at least 5 years after it is authorized to receive support.⁵⁴ As part of the original ETC Petition that NTUA Wireless filed, which remains pending before the

⁵³ 47 C.F.R. § 54.202(a)(1)(ii).

⁵⁴ 47 C.F.R. § 1003(b).

FCC, NTUA Wireless executed certifications pursuant to 47 CFR §§ 54.202, 54.313(a), 54.314(a), 54.809, and 54.904 that remain effective.

VII. ANTI-DRUG ABUSE ACT CERTIFICATION

As part of the original ETC Petition that NTUA Wireless filed, which remains pending before the FCC, NTUA Wireless executed various certifications that remain effective, including the anti-drug abuse certification that no party to this petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

VIII. CONCLUSION

NTUA Wireless has demonstrated that it possesses sufficient technical, financial and managerial resources and abilities to provide universal service and Lifeline service on the Navajo Nation and that consumers will significantly benefit from its designation as an ETC. NTUA Wireless respectfully requests the Commission designate it as an Eligible Telecommunications Carrier for purposes of receiving federal universal service support for Lifeline service on the Navajo Nation and eligibility for the Mobility Fund Phase I Auction. In addition, ETC status is critically important for purposes of planning and rolling out retail operations—including Lifeline service—in the first quarter of 2013. As a result, NTUA Wireless requests immediate approval

of its unopposed petition for designation as an Eligible Telecommunications Carrier.

Respectfully submitted,

NTUA WIRELESS, LLC

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September 4, 2012

EXHIBIT A:

SAMPLE ONE-PER-HOUSEHOLD FORM

Lifeline Household Worksheet

Name	
Address	
Telephone Number	

Lifeline is a government program that provides a monthly discount on home or mobile telephone services. Only ONE Lifeline discount is allowed per household. Members of a household are not permitted to receive Lifeline service from multiple telephone companies.

Your **household** is everyone who lives together at your address as one economic unit (including children and people who are not related to you).

The **adults** you live with are part of your **economic unit** if they contribute to and share in the income and expenses of the household. An **adult** is any person 18 years of age or older, or an emancipated minor (a person under age 18 who is legally considered to be an adult). Household **expenses** include food, health care expenses (such as medical bills) and the cost of renting or paying a mortgage on your place of residence (a house or apartment, for example) and utilities (including water, heat and electricity). **Income** includes salary, public assistance benefits, social security payments, pensions, unemployment compensation, veteran's benefits, inheritances, alimony, child support payments, worker's compensation benefits, gifts, and lottery winnings.

Spouses and domestic partners are considered to be part of the same household. Children under the age of 18 living with their parents or guardians are considered to be part of the same household as their parents or guardians. If an adult has no income, or minimal income, and lives with someone who provides financial support to that adult, both people are considered part of the same household.

You have been asked to complete this Worksheet because someone else currently receives a Lifeline-supported service at your address. This other person may or may not be a part of your household. Answer the questions below to determine whether there is more than one household residing at your address.

1. Does your spouse or domestic partner (that is, someone you are married to or in a relationship with) already receive a Lifeline-discounted phone? (check no if you do not have a spouse or partner) **YES** **NO**
 - If you checked **YES**, you may not sign up for Lifeline because someone in your household already receives Lifeline. Only ONE Lifeline discount is allowed per household.
 - If you checked **NO**, please answer question #2.

2. Other than a spouse or partner, do other adults (people over the age of 18 or emancipated minors) live with you at your address?

A. A parent <u> </u> YES <u> </u> NO	D. An adult roommate <u> </u> YES <u> </u> NO
B. An adult son or daughter <u> </u> YES <u> </u> NO	E. Other <u> </u> <u> </u> YES <u> </u> NO
C. Another adult relative (such as a sibling, aunt, cousin, grandparent, grandchild, etc.) <u> </u> YES <u> </u> NO	

 - If you checked **NO** for each statement above, you do not need to answer the remaining questions. Please initial line B, below, and sign and date the worksheet.
 - If you checked **YES**, please answer question #3.

3. Do you share living expenses (bills, food, etc.) and share income (either your income, the other person's income or both incomes together) with at least one of the adults listed above in question #2? **YES** **NO**
 - If you checked **NO**, then your address includes **more than one household**. Please initial lines A and B below, and sign and date the worksheet.
 - If you checked **YES**, then your address includes only **one household**. You may not sign up for Lifeline because someone in your household already receives Lifeline.

CERTIFICATION

Please initial the certifications below and sign and date this worksheet. Submit this worksheet to _____ [insert company or agency name] along with your Lifeline application.

- A. I certify that I live at an address occupied by multiple households.
- B. I understand that violation of the one-per-household requirement is against the Federal Communication Commission's rules and may result in me losing my Lifeline benefits, and potentially, prosecution by the United States government.

Signature _____ Date _____

EXHIBIT B:

**SAMPLE LIFELINE APPLICATION /
INITIAL CERTIFICATION FORM**

Wireless Lifeline Service Application and Certification

A complete and signed Lifeline Service Application and Certification ("Certification") is required to enroll you in NTUA Wireless' (the Company) Lifeline service program in your state. This Certification is only for the purpose of verifying your eligibility for Lifeline service and will not be used for any other purpose. Service requests will not be processed until this Form has been received and verified by Company.

One Lifeline service per household disclosures: Lifeline is a government assistance program and willfully making false statements to obtain a Lifeline benefit can result in fines, imprisonment, de-enrollment or being barred from the program. Lifeline benefits are limited to a single line of service per household. A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses. A household may not receive multiple Lifeline discounts. You may apply your Lifeline discount to either one landline or one wireless number, but you cannot have the discount on both and you cannot receive Lifeline benefits from multiple providers. Lifeline is a non-transferable benefit and you may not transfer your benefit to any other person, including another eligible low-income consumer. Violation of the one-per-household limitation constitutes a violation of the Federal Communications Commission's rules and will result in your de-enrollment from the program, and potentially prosecution by the United States Government.

By checking this box, I hereby certify that I have read and understood the disclosures listed above
☐ **and that, to the best of my knowledge, my household is not already receiving a Lifeline service benefit.**

Customer Application Information:

First Name Middle Initial	Last Name	Date of Birth (MM/DD/YY) / /
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Residential Address w/ street name & Apt Number (PO Box cannot be accepted)	City / State / Zip Code
Billing Address (if different from Residential Address) (P.O. Box IS sufficient)	City / State / Zip Code
<input type="checkbox"/> Residential Address is Permanent (Must Choose One) <input type="checkbox"/> Residential Address is Temporary <input type="checkbox"/> Residential Address is on Tribal Land	<input type="checkbox"/> Service Is New (Choose One) <input type="checkbox"/> Service Is Conversion

Social Security Number or Tribal Number - -	Home Telephone / Contact Number () -	Email Address
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Would you like to receive texts or emails from our company about new service offerings or promotions?
☐ Yes ☐ No This information will be for company use only, & will not be shared with a third party company or organization.

ELIGIBILITY REQUIREMENTS:	Number of persons in Household _____
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Do you or any member of your household currently receive Lifeline assistance at the above address? ☐ YES ☐ NO

I hereby certify that I currently participate in at least one the following public assistance programs (Check One):

- | | |
|--|---|
| <input type="checkbox"/> Supplemental Nutrition Assistance Program (SNAP)
<input type="checkbox"/> Federal Public Housing HUD/Section 8 (FPHA)
<input type="checkbox"/> Medicaid (not Medicare)
<input type="checkbox"/> Supplemental Security Income (SSI)
<input type="checkbox"/> Temporary Assistance for Needy Families (TANF)
<input type="checkbox"/> Low Income Home Energy Assistance Program (LIHEAP)
<input type="checkbox"/> National School Lunch Program's free lunch programs
<input type="checkbox"/> Income at or below 135% of Federal Poverty Guidelines | <input type="checkbox"/> Bureau of Indian Affairs General Assistance
<input type="checkbox"/> Tribally Administered Temporary Assistance for Needy Families
<input type="checkbox"/> Head Start (must meet income qualifying standard)
<input type="checkbox"/> Food Distribution Program on Indian Reservations
<input type="checkbox"/> Other State mandated program
<div style="border-bottom: 1px solid black; width: 100%; margin-top: 5px;"></div> |
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ADDITIONAL CERTIFICATIONS: I hereby certify, under penalty of perjury, that:

- ☐ I meet the income-based or program-based eligibility criteria for receiving Lifeline service and have provided documentation of eligibility if required
- ☐ I will notify the Company within 30 days if for any reason I no longer satisfy the criteria for receiving Lifeline including, as relevant, if I no longer meet the income-based or program-based eligibility criteria, I begin receiving more than one Lifeline benefit, or another member of my household is receiving a Lifeline benefit. I understand that I may be subject to penalties if I fail to follow this requirement
- ☐ I am not listed as a dependent on another person's tax return (unless over the age of 60)
- ☐ The address listed below is my primary residence, not a second home or business
- ☐ If I move to a new address, I will provide that new address to the Company within 30 days
- ☐ If I provided a temporary residential address to the Company, I will verify my temporary residential address every 90 days
- ☐ I acknowledge that providing false or fraudulent information to receive Lifeline benefits is punishable by law
- ☐ I acknowledge that I may be required to re-certify my continued eligibility for Lifeline at any time, and my failure to re-certify as to my continued eligibility within 30 days will result in de-enrollment and the termination of my Lifeline benefits
- ☐ The information contained in this certification form is true and correct to the best of my knowledge

Multiple households sharing and address:

- ☐ I hereby certify that I reside at an address occupied by multiple households, including adults who do not contribute income to my household and/or share in my household's expenses, and I will complete a separate additional form.

Activation and usage requirement disclosures: This service is a prepaid service and you must personally activate it by calling. To keep your account active, you must use your Lifeline service at least once during any 60 day period by completing an outbound call, purchasing additional minutes from Company, answering an in-bound call from someone other than Company, or by responding to a direct contact from Company confirming that you want to continue receiving Lifeline service from Company. If your service goes unused for 60 days, you will no longer be eligible for Lifeline benefits and your service will be suspended (allowing only 911 calls and calls to the Company's customer care center) subject to a 30 day cure period during which you may use the service (as described above) or contact the Company to confirm that you want to continue receiving Lifeline service from Company.

- ☐ I hereby certify that I have read and understood the disclosures listed above regarding activation and usage requirements.

Authorizations:

- ☐ I hereby authorize the Company to access any records required to verify my statements on this form and to confirm my eligibility for the Lifeline program. I also authorize the Company to release any records required for the administration of the Lifeline program (e.g., name, telephone number and address), including to the Universal Service Administrative Company, to be used in a Lifeline eligibility database and to ensure the proper administration of the Lifeline program. Failure to consent will result in denial of service.

Applicant's Signature:

Date:

For Agent Use Only (check only 1 eligibility category and only 1 box under that category; do not copy or retain documentation):**Documents Acceptable Proof for Income-Eligibility:**

- ☐ The prior year's state, federal, or Tribal tax return,
- ☐ Current income statement from an employer or paycheck stub,
- ☐ A Social Security statement of benefits,
- ☐ A Veterans Administration statement of benefits,
- ☐ A retirement/pension statement of benefits,
- ☐ An Unemployment/Workmen's Compensation statement of benefits,
- ☐ Federal or Tribal notice letter of participation in General Assistance, or
- ☐ A divorce decree, child support award, or other official document containing income information for at least three months' time.

Household Size	135% Income Requirement	Household Size	135% Income Requirement
1	\$ 15,080	5	\$ 36,464
2	\$ 20,426	6	\$ 41,810
3	\$ 25,772	7	\$ 47,156
4	\$ 31,118	8	\$ 52,502
Each additional person Add \$5,346			

Documents Acceptable Proof for Program-Eligibility:

- ☐ The current or prior year's statement of benefits from a qualifying state, federal or Tribal program;
- ☐ A notice letter of participation in a qualifying state, federal or Tribal program;
- ☐ Program participation documents (e.g., the consumer's Supplemental Nutrition Assistance Program (SNAP) electronic benefit transfer card or Medicaid participation card (or copy thereof)); or
- ☐ Another official document evidencing the consumer's participation in a qualifying state, federal or Tribal program

Applicant Account Number	Rep/Agent Signature